

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Daniel Cooper	Team: Squad #7	CCRB Case #: 201708780	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 10/06/2017 11:15 PM	Location of Incident: St. Nicholas Avenue and West 112th Street; 28th Precinct stationhouse; § 87(2)(b)	Precinct: 28	18 Mo. SOL 4/6/2019	EO SOL 4/6/2019	
Date/Time CV Reported Wed, 10/11/2017 8:40 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 10/23/2017 10:58 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. An officer			028 PCT
2. POF Ashley Ricci	10013	946158	028 PCT
3. POF Tammie Garcia	20329	929524	028 PCT
4. Officers			028 PCT
5. SGT Opeyemi Sapara	03980	935701	028 PCT
6. POF Nerys Ramirez	01947	939271	028 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jeffrey Martin	11623	960880	028 PCT
2. POM Genry Cobos	01347	933701	028 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Tammie Garcia	Abuse: On October 6, 2017, at Saint Nicholas Avenue and West 112th Street, in Manhattan, Police Officer Tammie Garcia searched § 87(2)(b)	§ 87(2)(b)
B.POF Tammie Garcia	Force: On October 6, 2017, at Saint Nicholas Avenue and West 112th Street, in Manhattan, Police Officer Tammie Garcia used physical force against § 87(2)(b)	§ 87(2)(b)
C.SGT Opeyemi Sapara	Force: On October 6, 2017, at Saint Nicholas Avenue and West 112th Street, in Manhattan, Sergeant Opeyemi Sapara used physical force against § 87(2)(b)	§ 87(2)(b)
D.SGT Opeyemi Sapara	Force: On October 6, 2017, at Saint Nicholas Avenue and West 112th Street, in Manhattan, Sergeant Opeyemi Sapara used physical force against § 87(2)(b)	§ 87(2)(b)
E. Officers	Force: On October 6, 2017, at Saint Nicholas Avenue and West 112th Street, in Manhattan, officers used physical force against § 87(2)(b)	§ 87(2)(b)
F. An officer	Discourtesy: On October 6, 2017, at Saint Nicholas Avenue and West 112th Street, in Manhattan, an officer spoke discourteously to § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
G. An officer	Discourtesy: On October 6, 2017, at Saint Nicholas Avenue and West 112th Street, in Manhattan, an officer spoke discourteously to § 87(2)(b)	
H. An officer	Off. Language: On October 6, 2017, at Saint Nicholas Avenue and West 112th Street, in Manhattan, an officer made remarks to § 87(2)(b) based upon her gender.	
I.POF Nerys Ramirez	Force: On October 6, 2017, at the 28th Precinct stationhouse, Police Officer Nerys Ramirez used physical force against § 87(2)(b)	
J. An officer	Force: On October 6, 2017, at the 28th Precinct stationhouse, an officer used physical force against § 87(2)(b)	
K.POF Ashley Ricci	Force: On § 87(2)(b), at § 87(2)(b), Police Officer Ashley Ricci used physical force against § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

### Case Summary

On October 11, 2017, § 87(2)(b) filed this complaint with IAB on behalf of herself and § 87(2)(b) whom she did not know, generating IAB Log number 17-39664.

On October 6, 2017, at approximately 11:15 p.m., § 87(2)(b) and an unidentified black male, were standing at the corner of Saint Nicholas Avenue and West 112<sup>th</sup> Street, in Manhattan. PO Tammie Garcia and Sgt. Opeyemi Sapara, from the 28<sup>th</sup> Precinct, approached § 87(2)(b) and the unidentified black male. Upon approaching § 87(2)(b) PO Garcia allegedly placed her hands in § 87(2)(b) pockets (**Allegation A: Abuse of Authority:** § 87(2)(g)). While attempting to handcuff § 87(2)(b) PO Garcia and Sgt. Sapara hit § 87(2)(b) hands against a nearby phone booth (**Allegations B and C: Force:** § 87(2)(g)). Sgt. Sapara allegedly placed his knees against § 87(2)(b) chest and punched him on his face and body (**Allegation D: Force:** § 87(2)(g)).

PO Genry Cobos and PO Nerys Ramirez and additional officers, from the 28<sup>th</sup> Precinct, were called to the scene to assist PO Garcia and Sgt. Sapara in taking § 87(2)(b) into custody. While § 87(2)(b) was on the ground, he allegedly felt kicks and punches about his body (**Allegation E: Force:** § 87(2)(g)). While on the ground, § 87(2)(b) heard an officer allegedly state, “Stupid asshole” (**Allegation F: Discourtesy:** § 87(2)(g)). Once in handcuffs, Sgt. Sapara allegedly dragged § 87(2)(b) by the handcuffs until he was placed in a police vehicle (**within Allegation C: Force:** § 87(2)(g)).

While § 87(2)(b) recorded the incident, an officer allegedly told her, “Shut the fuck up bitch” (**Allegations G and H: Discourtesy and Offensive Language:** § 87(2)(g)). Once at the stationhouse, PO Ramirez allegedly slapped § 87(2)(b) with his shoe (**Allegation I: Force:** § 87(2)(g)). While in the back of the ambulance, an officer allegedly jumped on § 87(2)(b) legs (**Allegation J: Force:** § 87(2)(g)). Once at § 87(2)(b), PO Ricci punched § 87(2)(b) in the face (**Allegation K: Force:** § 87(2)(g)).

§ 87(2)(b) was arrested and charged with § 87(2)(b). § 87(2)(b) provided video footage, taken at Saint Nicholas Avenue and West 112<sup>th</sup> Street, via her cell phone.

### **Allegation A: Abuse of Authority: On October 6, 2017, at Saint Nicholas Avenue and West 112th Street, in Manhattan, Police Officer Tammie Garcia searched § 87(2)(b)**

It is undisputed that § 87(2)(b) was stopped by PO Garcia and Sgt. Sapara after they witnessed § 87(2)(b) and an unidentified black male engaged in what they believed to be a narcotics transaction. It is undisputed that Sgt. Sapara and PO Garcia were the only officers at the location when the alleged search of § 87(2)(b) pockets occurred.

§ 87(2)(b) stated that before PO Garcia and Sgt. Sapara approached him, § 87(2)(b) went to the grocery store and minutes later, he encountered a friend from the neighborhood. § 87(2)(b) and his friend smoked a tobacco cigarette, but he denied that he exchanged any items with anyone, or that he was involved in a narcotics exchange. Minutes after exiting the store, PO Garcia and Sgt. Sapara approached § 87(2)(b) and PO Garcia immediately placed her hands in § 87(2)(b) right front pocket. PO Garcia then removed nine dollars, a card and two vials of crack cocaine. § 87(2)(b) had concealed within his pocket (Board Review 1 and 2).

During his interview with IAB, § 87(2)(b) acknowledged that he had two vials of crack cocaine and was smoking a "stem," colloquially known as the end of a marijuana cigarette, when PO Garcia and Sgt. Sapara approached him (Board Review 18).

PO Garcia stated that she and Sgt. Sapara were patrolling the area when she noticed § 87(2)(b) and an unidentified black male directly to her left. PO Garcia parked her vehicle approximately five feet away from § 87(2)(b). From her vantage point, PO Garcia clearly saw § 87(2)(b) and the male clasp hands. The male gave an unspecified amount of money to § 87(2)(b) who in turn passed the male a glassine item. After PO Garcia made Sgt. Sapara aware of her observation, the two exited their vehicle and approached § 87(2)(b). PO Garcia and Sgt. Sapara intended to place § 87(2)(b) and the male under arrest for their roles in the drug transaction.

After PO Garcia and Sgt. Sapara approached § 87(2)(b) he still had the money and other glassine vials clenched in his hands. PO Garcia asked § 87(2)(b) to open his hands, but instead he placed both his hands inside of his front pants pockets. PO Garcia asked again for § 87(2)(b) to give his hands and told him he was being placed under arrest, but instead of giving his hands, § 87(2)(b) began yelling profanities and flailing his arms. PO Garcia denied that she went into § 87(2)(b) pockets upon approach and placed her hands in his pockets. Eventually, § 87(2)(b) was successfully handcuffed. Due to § 87(2)(b) resistance, however, the officers were unable to frisk or search § 87(2)(b) prior to when he was handcuffed. The remaining glassine vials were recovered from him after he was in handcuffs, but PO Garcia did not recall which officer retrieved them (Board Review 8 and 9).

Sgt. Sapara was consistent with PO Garcia and added that they both told § 87(2)(b) more than once to give his hands so that they could place him into handcuffs, but he refused. Once Sgt. Sapara had § 87(2)(b) secured on the ground, the handcuffs were successfully placed on him. Sgt. Sapara denied that he searched or frisked § 87(2)(b) and did not know which officer conducted a search or frisk of § 87(2)(b). Sgt. Sapara did not recall how many vials of crack were recovered from § 87(2)(b) (Board Review 10 and 11).

The complaint form regarding § 87(2)(b) arrest notes that eight glassine vials of alleged crack cocaine and five dollars were vouchered following his arrest (Board Review 49).

A search must be incident to an actual arrest, not just to probable cause that might have led to an arrest, but did not. People v. Reid, 24 N.Y.3d 615 (2014) (Board Review 25) A person is guilty of criminal sale of a controlled substance in the third degree when he knowingly and unlawfully sells a narcotic drug. N.Y.S. Penal Law, Section 220.39 (Board Review 54).

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)

**Allegation B: Force: On October 6, 2017, at Saint Nicholas Avenue and West 112th Street, in Manhattan, Police Officer Tammie Garcia used physical force against § 87(2)(b)**

**Allegation C: Force: On October 6, 2017, at Saint Nicholas Avenue and West 112th Street, in Manhattan, Sergeant Opeyemi Sapara used physical force against § 87(2)(b)**

**Allegation D: Force: On October 6, 2017, at Saint Nicholas Avenue and West 112th Street, in Manhattan, Sergeant Opeyemi Sapara used physical force against § 87(2)(b)**

It is undisputed that § 87(2)(b) refused to be handcuffed, give PO Garcia or Sgt. Sapara his hands, and pulled his arms away from them, despite the officers telling him that he was being placed under arrest. It is also undisputed that § 87(2)(b) had a black cast on his left arm from a pre-existing injury unrelated to any police interaction.

§ 87(2)(b) stated that after he refused to give his hands, he heard multiple officers say, “Quit fighting,” but he denied that he was resisting or fighting with the officers. Sgt. Sapara then “tackled” § 87(2)(b) to the ground, but § 87(2)(b) could not describe the exact manner in which he was brought to the ground. § 87(2)(b) landed with his stomach and chest facing the ground. Sgt. Sapara turned § 87(2)(b) over until he faced up and then placed his knees on § 87(2)(b) chest. While § 87(2)(b) was on the ground, Sgt. Sapara punched § 87(2)(b) once in the face and more than once about his body.

Eventually Sgt. Sapara was able to place § 87(2)(b) in handcuffs. Sgt. Sapara did not allow § 87(2)(b) to stand upright, but with the help of PO Garcia, he was dragged by the handcuffs to a police vehicle. As a result of being dragged, § 87(2)(b) sustained scarring to his wrists and limited feeling in his right arm and hand. In his initial interview, § 87(2)(b) stated PO Garcia and Sgt. Sapara hit his hands against a nearby phone booth. However, when he was re-interviewed, § 87(2)(b) denied that happened (Board Review 1 and 2).

During his IAB interview, § 87(2)(b) did not mention being dragged to a police vehicle, punched, or having his hands struck against a phone booth. § 87(2)(b) alleged additional force to IAB, which is explained below (Board Review 18).

In her phone statement to IAB, § 87(2)(b) stated that Sgt. Sapara approached § 87(2)(b) and “jumped” on him like a “wrestling move.” Sgt. Sapara then punched § 87(2)(b) in the face while he was in handcuffs. § 87(2)(b) denied that any other officers punched § 87(2)(b). § 87(2)(b) stated that Sgt. Sapara had his knee on § 87(2)(b) back (Board Review 19 - 21).

EMT § 87(2)(b) and EMT § 87(2)(b) who transported § 87(2)(b) to the hospital from the 28<sup>th</sup> Precinct stationhouse, both denied that § 87(2)(b) made any allegations that an officer hit, punched, or kicked him or that he complained of any injuries, which was confirmed by the Pre-hospital Care Report (PCR) (Board Review 3- 5).

PO Garcia said she was able to handcuff one of § 87(2)(b) arms, but due his noncompliance, PO Garcia was unable to cuff § 87(2)(b) other arm. Despite being told to stop resisting and to place his arms behind his back, § 87(2)(b) continued to swing his arms until PO Garcia’s hand became

jammed between the handcuffs and § 87(2)(b) wrist, which caused her pain to her right hand. PO Garcia denied that she or Sgt. Garcia hit § 87(2)(b) hand against a phone booth. Given § 87(2)(b) resistance, PO Garcia and Sgt. Sapara requested that additional officers respond to the location.

PO Garcia did not know if any specific maneuver was used to bring § 87(2)(b) to the ground. PO Garcia did not assist because she had hurt her right hand. § 87(2)(b) was brought to the ground and laid on his back. PO Garcia denied that his head or face hit the ground.

As Sgt. Sapara and the other officers attempted to grab his arms, § 87(2)(b) continued to pull his arms away, kicked his legs and continued to scream profanities. PO Garcia denied that Sgt. Sapara punched § 87(2)(b). Eventually he was able to place handcuffs on § 87(2)(b). Sgt. Sapara and another officer, who she could not recall, picked § 87(2)(b) up by his arms and walked him to PO Ramirez and PO Cobos' vehicle. § 87(2)(b) walked on his own and was not dragged by his handcuffs (Board Review 8 and 9).

Sgt. Sapara was consistent with PO Garcia that § 87(2)(b) did not provide his arms and PO Garcia's arm got twisted with her thumb pinned against § 87(2)(b) body. Due to § 87(2)(b) resistance, Sgt. Sapara called for additional units. With the help of the other officers, whom he could not recall, Sgt. Sapara grabbed § 87(2)(b) and held him against the telephone booth that was nearby. They leveraged § 87(2)(b) to the ground, but he did not recall how. § 87(2)(b) face and head did not make contact with the ground and he was placed face up. Sgt. Sapara denied that he punched § 87(2)(b) or that he or another officer hit his hand against the phone booth. After § 87(2)(b) was handcuffed, Sgt. Sapara and another officer picked up § 87(2)(b) off of the ground walked him to a marked vehicle. Sgt. Sapara denied that § 87(2)(b) was dragged (Board Review 10 and 11).

PO Ramirez stated that she and her partner, PO Cobos, arrived at the location and saw that Sgt. Sapara and PO Garcia were attempting to handcuff § 87(2)(b). PO Ramirez heard PO Garcia say more than once, "Give me your hands." PO Ramirez denied that she assisted in handcuffing § 87(2)(b) as she was acting as crowd control. PO Ramirez did not observe § 87(2)(b) being brought to the ground, being punched by Sgt. Sapara, having his hands hit against the phone booth, or Sgt. Sapara on top of § 87(2)(b) (Board Review 14 and 15).

PO Cobos denied that any officers were on top of § 87(2)(b) body and he did not see PO Garcia or Sgt. Sapara hit § 87(2)(b) hands against the phone booth. PO Cobos did not know if he assisted in picking § 87(2)(b) up from the ground, but eventually § 87(2)(b) was picked up and walked on his own to PO Cobos and PO Ramirez's vehicle. PO Cobos could not recall if § 87(2)(b) was ever dragged by his handcuffs (Board Review 16 and 17).

PO Ricci and PO Martin both testified that they were not at the arrest location and did not know the circumstances surrounding § 87(2)(b) arrest because they first interacted with § 87(2)(b) at the stationhouse (Board Review 6 and 7; 12 and 13).



§ 87(2)(b) on the ground.mp4

At the 0:10 mark in the video several officers are standing around § 87(2)(b) who is lying on the ground. At the 0:20 mark, Sgt. Sapara is hunched over § 87(2)(b) and there is movement coming from Sgt. Sapara's body, but it is not clear if a punch occurs (Board Review 22 and 53).



§ 87(2)(b) walking to the RMP.mp4

At the 0:07 mark, § 87(2)(b) is picked up off the ground and walked to a police vehicle. At no point in the video is § 87(2)(b) dragged by the handcuffs (Board Review 23 and 53).

Sgt. Sapara and PO Garcia's TRI reports note that the only force they used was to handcuff § 87(2)(b). The TRI report also notes that § 87(2)(b) was transported to the hospital as an emotionally disturbed person and that he sustained a minor laceration while being brought to the ground (Board Review 44). PO Garcia's line-of-duty injury report documents that she was injured while attempting to handcuff § 87(2)(b) who was actively resisting (Board Review 48).

§ 87(2)(b) medical records note that he continually complained that he was short of breath despite yelling at hospital staff. § 87(2)(b) only complained that he had broken his arm in the past, but made no complaints of new injuries to hospital personnel. § 87(2)(b) medical records only noted that he had an abrasion to his right elbow, but that he had no difficulty moving his extremities (see privileged documents).

An officer may apply no more than the reasonable force necessary to gain control of and place a subject into police custody. NYPD Patrol Guide, Section 221-01 (Board Review 55).

§ 87(2)(g)  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]

§ 87(2)(b) medical records only note an abrasion to his elbow and do not mention any injuries to his face, caused by the alleged punch. During § 87(2)(b) interaction with the EMTs and medical personnel, he never mentioned being punched by an officer. § 87(2)(b) a witness to § 87(2)(b) arrest, testified to IAB that Sgt. Sapara punched § 87(2)(b). However, the video evidence provided by § 87(2)(b) does not clearly show a punch as alleged.

§ 87(2)(g)  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]

§ 87(2)(g)

**Allegation E: Force: On October 6, 2017, at Saint Nicholas Avenue and West 112th Street, in Manhattan, officers used physical force against § 87(2)(b)**

**Allegation F: Discourtesy: On October 6, 2017, in front Saint Nicholas Avenue and West 112th Street, in Manhattan, an officer spoke discourteously to § 87(2)(b)**

§ 87(2)(b) stated that while he was on the ground he felt punches and kicks from various officers.

§ 87(2)(b) was unable to provide any pedigree information or additional details about the officers involved because he is legally blind. Similarly, § 87(2)(b) heard at least one officer say, “Stupid asshole,” but he could not identify which officer made that statement (Board Review 1 and 2).

During his interview with IAB, § 87(2)(b) stated he was kicked while on the ground, but did not allege being punched (Board Review 18).

During her interview with IAB, § 87(2)(b) alleged a single punch from Sgt. Sapara and denied that any other officers punched or kicked § 87(2)(b) (Board Review 19 - 21).

Sgt. Sapara, PO Cobos, PO Garcia and PO Ramirez did not recall any additional officers that responded to the location. After watching the video, Sgt. Sapara, PO Cobos, PO Garcia and PO Ramirez were still unable to recall or identify any additional officers that responded to the location. All denied using profanity while at the location and denied that they or another officer kicked or punched § 87(2)(b) (Board Review 8-11; 14-17).



§ 87(2)(b) on the ground.mp4

As noted above, the video does not show any kicks or punches coming from the officers. During the video, it appears the word “fuck” is uttered more than once, but it is not clear if those comments are coming from § 87(2)(b) or an officer. The video does not capture any one saying, “Stupid asshole” (Board Review 22 and 53).

As mentioned above, § 87(2)(b) made no statement to medical personnel regarding being punched or kicked by officers and his medical records do not diagnose him with any injuries consistent with being punched or kicked (see privileged documents folder).

§ 87(2)(g)

**Allegation G: Discourtesy: On October 6, 2017, at Saint Nicholas Avenue and West 112th Street, in Manhattan, an officer spoke discourteously to § 87(2)(b)**



**Allegation H: Offensive Language: On October 6, 2017, at Saint Nicholas Avenue and West 112th Street, in Manhattan, an officer made remarks to § 87(2)(b) based upon her gender.**

§ 87(2)(b) did not provide a sworn statement to the CCRB and was ultimately uncooperative with the investigation. § 87(2)(b) provided a statement to IAB, in which she stated that while she was recording the incident on her cell phone a female Hispanic officer stated to her, “Shut the fuck up. Shut the fuck up bitch.” § 87(2)(b) provided cell phone video to IAB and stated that video depicted the officer who made that statement. During a follow-up call to IAB, § 87(2)(b) stated that the officer only stated, “Shut the fuck up” (Board Review 20 - 21).

§ 87(2)(b) acknowledged in his interview with IAB that he saw individuals recording, but he did not witness any interaction between them and the officers (Board Review 18).

PO Garcia, a Hispanic female, stated that she saw § 87(2)(b) recording on her cell phone. PO Garcia did not hear any specific comments that § 87(2)(b) was making. PO Garcia denied that she said, “Shut the fuck up. Shut the fuck up bitch” and denied that another officer made that comment. PO Garcia denied that she used profanity while at the location. PO Garcia acknowledged that she and PO Ramirez were the only Hispanic females at the location (Board Review 8 and 9).

PO Ramirez, a Hispanic female, acknowledged that she told § 87(2)(b) “Step back you are standing to close to us” but denied that she told § 87(2)(b) “Shut the fuck up bitch.” After watching the video, PO Ramirez acknowledged that she heard the phrase, “Shut the fuck up,” but she did not recognize whether the voice was her own or that of another officer (Board Review 14 and 15).

Sgt. Sapara and PO Cabos denied that they or another officer said, “Shut the fuck up” or “Shut the fuck up bitch” to § 87(2)(b) (Board Review 10, 11, 16 and 17).



Discourtesy § 87(2)(b).mp4

At the 0:20 mark, the phrase, “Shut the fuck up” can be heard, but it is not clear who makes this comment (Board Review 24 and 53).

§ 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Allegation I: Force: On October 6, 2017, at the 28th Precinct stationhouse, Police Officer Nervys Ramirez used physical force against § 87(2)(b)**

It is undisputed that PO Cobos and PO Ramirez transported § 87(2)(b) to the 28<sup>th</sup> Precinct stationhouse after his arrest.

§ 87(2)(b) stated that as he exited the vehicle his shoe fell off. PO Ramirez allegedly picked up § 87(2)(b) shoe and then slapped him across the face with it (Board Review 1 and 2).

PO Ramirez stated that once they arrived at the stationhouse, PO Ramirez and PO Cobos carried § 87(2)(b) by his arms into the stationhouse, possibly with the help of one other officer. PO Ramirez did not recall who that officer was, or if that officer rode with them to the stationhouse. § 87(2)(b) was carried by his arms and legs because he spit at the officers, continued to kick his legs and would not stand on his own. PO Ramirez denied that § 87(2)(b) shoes fell off and denied that she or another officer slapped § 87(2)(b) with his shoe. PO Ramirez denied seeing any officer use any force against § 87(2)(b) while at the stationhouse (Board Review 14 and 15).

PO Cobos denied that any officer slapped § 87(2)(b) with his own shoe. PO Cobos was consistent with PO Ramirez that he did not recall whether another officer rode in the back of a police vehicle, but he did not know if he and PO Ramirez had any assistance in getting § 87(2)(b) from the vehicle to the front desk. PO Cobos denied seeing any physical force used against § 87(2)(b) while at the stationhouse (Board Review 16 and 17).

§ 87(2)(g)

**Allegation J: Force: On October 6, 2017, at the 28th Precinct stationhouse, in Manhattan, an officer used physical force against § 87(2)(b)**

§ 87(2)(b) stated that a struggle ensued among him, officers and EMTs because his left arm was broken and they attempted to handcuff him. During the struggle, one of the officers placed their legs atop § 87(2)(b) legs and began to bounce on them, which caused § 87(2)(b) to sustain swelling to his legs and ankles. § 87(2)(b) could not describe the officers who held down his legs (Board Review 1 and 2).

EMT § 87(2)(b) stated that he, EMT § 87(2)(b) and the officers attempted to have § 87(2)(b) sit and fasten his seat belt. § 87(2)(b) responded by saying, “Screw you. I am not going to listen to you. Fuck you.” While asking § 87(2)(b) to sit down, he kicked EMT § 87(2)(b) s right knee and grabbed EMT § 87(2)(b) s forearm which caused a laceration to that arm. EMT § 87(2)(b) had to exit the ambulance and was later treated for pain to his knee. Due to § 87(2)(b) noncompliance and violence towards EMT § 87(2)(b) an additional ambulance unit was requested to respond to the location to assist with sedating § 87(2)(b) EMT § 87(2)(b) did not recall whether an officer put his or her body on § 87(2)(b) legs (Board Review 3 and 4).

EMT § 87(2)(b) was consistent with EMT § 87(2)(b) and stated that § 87(2)(b) kicked, moved his shoulders, used profanity and spat at both the EMTs and the officers. § 87(2)(b) noncompliance went on for over fifteen minutes while the EMTs and officers asked § 87(2)(b) to sit down. During this time, § 87(2)(b) kicked EMT § 87(2)(b) causing an injury to his leg. Due to § 87(2)(b) level of resistance, another EMT unit came to the stationhouse to assist in sedating § 87(2)(b).

§ 87(2)(b) EMT § 87(2)(b) stated that with the help of officers they were able to buckle § 87(2)(b) into his seatbelt. EMT § 87(2)(b) did not know if any officer held § 87(2)(b) down by his legs or jumped on his legs (Board Review 5).

PO Martin stated that he swung his upper torso, shoulders, and arms away from PO Martin, preventing him from successfully securing § 87(2)(b) into the seatbelt. PO Martin did not see the physical contact that § 87(2)(b) made with EMT § 87(2)(b) or anyone else, but § 87(2)(b) spat at the officers which required the EMTs to place him into a spit mask. PO Martin, PO Ricci, PO Garcia and the two EMTs held § 87(2)(b) body to place the seatbelt on him. PO Martin held both of § 87(2)(b) legs, both EMTs held the top of § 87(2)(b) body, while PO Ricci and PO Garcia held onto another part of § 87(2)(b) body. Once § 87(2)(b) was on the stretcher, the EMTs placed three seat buckles over § 87(2)(b) one over his legs, one of his waist and one over his torso. An EMT injected § 87(2)(b) with the sedative once § 87(2)(b) was securely on the stretcher (Board Review 6 and 7).

PO Ricci was consistent with PO Martin that § 87(2)(b) moved his upper body back and forth, and he kicked both of his legs. The officers held § 87(2)(b) arms to keep them from moving. PO Ricci did not recall where on § 87(2)(b) body each person held, but in attempting to restrain § 87(2)(b) EMT § 87(2)(b)'s knee was injured. Within in a few seconds, § 87(2)(b) was restrained (Board Review 12 and 13).

PO Garcia's statement was consistent with PO Martin and PO Garcia's statement in that § 87(2)(b) began to kick and attempted to head-butt one of EMTs as they placed him in a seatbelt. § 87(2)(b) also kicked his legs and injured EMT § 87(2)(b). As PO Garcia attempted to hold § 87(2)(b) shoulders down, § 87(2)(b) attempted to bite her and § 87(2)(b) was also spitting, which caused one of the EMTs to place a spit mask on him. PO Garcia denied that while in the back of the ambulance an officer stood on § 87(2)(b) legs and pushed them down (Board Review 8 and 9).

An officer may apply no more than the reasonable force necessary to gain control of and place a subject into police custody. NYPD Patrol Guide, Section 221-01 (Board Review 55).

§ 87(2)(g)  
[REDACTED]

**Allegation K: Force: On § 87(2)(b), at § 87(2)(b), in Manhattan, Police Officer Ashley Ricci used physical force against § 87(2)(b)**

It is undisputed that while at § 87(2)(b), one of § 87(2)(b) arms was handcuffed to the hospital bed. It is also undisputed that PO Ricci punched § 87(2)(b) at least once in the face.

§ 87(2)(b) stated while he was in the hospital bed, PO Ricci punched him unprovoked. When interviewed, § 87(2)(b) volunteered, without being asked, that he was not masturbating just before PO Ricci punched him (Board Review 1 and 2).

EMT § 87(2)(b) and EMT § 87(2)(b) stated that after § 87(2)(b) arrived at the hospital they had no further interaction with him (Board Review 3 - 5).

PO Ricci stated that once § 87(2)(b) was inside of his hospital room, he continued to be combative with hospital staff similar to how he was in the back of the ambulance. § 87(2)(b) left hand was handcuffed to the bed while his other hand was free. After speaking to a nurse, § 87(2)(b) stated, "I got something for you." § 87(2)(b) then began to masturbate with his right hand. PO Ricci attempted to grab his hand and cuff it to the other side of the bed. During this time, PO Martin was inside of the bathroom.

As PO Ricci grabbed § 87(2)(b) hand, he reached toward her utility belt and pulled her utility belt towards him. This action caused PO Ricci to fall towards § 87(2)(b). Since PO Ricci believed § 87(2)(b) was grabbing her gun, she punched him once or twice on the right side of his face. At this point, additional hospital staff had entered the room, and began to restrain § 87(2)(b) arm. PO Ricci was then able to place the handcuff on § 87(2)(b) right arm. PO Ricci denied that she called for help or verbalized needing assistance. When PO Martin exited the bathroom, § 87(2)(b) was already restrained and PO Ricci informed him what had occurred. PO Ricci did not recall if she completed a TRI or any additional documentation. PO Ricci acknowledged that she punched § 87(2)(b) because she feared for her safety and did it to prevent him from reaching for her gun (Board Review 12 and 13).

PO Martin stated that once at the hospital, § 87(2)(b) sedation had taken effect. PO Martin stayed with § 87(2)(b) in his hospital room and did not notice any issues with § 87(2)(b). PO Martin denied that he saw § 87(2)(b) masturbating. PO Martin denied PO Ricci or another officer punched § 87(2)(b) in the face and denied that an officer punched § 87(2)(b) at any time while he was at the hospital. PO Martin denied that he heard PO Ricci make any comments regarding § 87(2)(b) masturbating (Board Review 6 and 7).

An officer may use force when it is reasonable to ensure the safety of a member of the service or a third person or otherwise protect life. NYPD Patrol Guide, Section 221-01 (Board Review 55).

According to § 87(2)(b) medical records, he was uncooperative and combative with hospital staff. § 87(2)(b) was seen at § 87(2)(b) prior to his transport to Manhattan Central Booking. § 87(2)(b) medical records note no injuries (see privileged documents folder).

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

#### **Civilian and Officer Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party. § 87(2)(b)
- PO Garcia has been a member-of-service for 15 years and has been a subject in 12 CCRB complaints and 15 allegations, none of which were substantiated. § 87(2)(g)
- Sgt. Sapara has been a member-of-service for 13 years and this is the first CCRB complaint to which he has been a subject.
- PO Ramirez has been a member-of-service for 12 years and has been the subject to eight CCRB complaints and twenty allegations, of which three were substantiated.
  - 200606767 involved the substantiated allegations of physical force, a stop, and discourtesy against PO Ramirez. The Board recommended charges and the NYPD instituted no disciplinary action.
- PO Ricci has been a member-of-service for 10 years and has been the subject in two CCRB complaints and three allegations, none of which were substantiated. § 87(2)(g)

#### **Mediation, Civil, and Criminal Histories**

- This case was unsuitable for mediation.
- As of May 23, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 5).

- § 87(2)(b), § 87(2)(c)  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]
- § 87(2)(b), § 87(2)(c)  
[Redacted]  
[Redacted]

Squad No.: 07

Investigator:	_____	<u>Inv. Daniel Cooper</u>	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	<u>IM Diana Townsend</u>	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date